IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE K.K.SASIDHARAN

W.P. No. 29901 of 2015

M/s. Ashok Trading Company,
rep. By its Partner
Mr. Mahnendra Patel,
No. 25/1B3, Thuvakudi Toll Plaza,
Asoor Post, Thuvakudi,
Trichy 620 015.

...Petitioner

Vs.

The Authorised Officer,
HDFC Bank,
Mariam Centre,
751/A Anna Salai,
Chennai 600 002. `

...Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified Mandamus Calling for the letter dated 31.08.2015 in reference No.DFSO/Ashok Trading/3108/2015-2016 and quash the same as being bereft of reason and arbitrary and consequently direct the respondent to accept the offer made by the petitioner.

For petitioner : M/s. Ananda Gomathy

ORDER

(Order of the was delivered by SATISH K. AGNIHOTRI, J.)

Questioning the legality and validity of the letter dated 31.08.2015, the petitioner-company has filed this writ petition on the ground that without assigning any reason, the Bank has rejected the request made by the petitioner-company.

2. Once an asset has been declared as a non-performing asset, the Bank is entitled to take recourse to the measures as prescribed under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short "the SARFAESI Act").

3. On a perusal of the records, it appears that on 06.02.2015, the respondent-Bank served a demand notice on the petitioner-company, who happens to be the borrower, calling upon the petitioner-company to make the payment within a period of sixty days, as required under the provisions of law.

4. According to the learned counsel for the petitioner-company, pursuant to the aforestated notice, the petitioner-company has made a representation under the provisions of 13(3-A) of the SARFAESI Act, which is still pending consideration. It is also the case of the petitioner-company that the Bank is under an obligation to respond to the said representation by passing a reasoned order. In that view of the matter, the Bank may be directed to consider the representation as aforestated, on its own merits and in accordance with law.

5. Be that as it may, at this stage, we are not inclined to interfere with the proceedings at this stage. However, we deem it fit and proper to direct the respondent-Bank that if the representation made by the petitioner-company, as aforestated, pursuant to the demand notice dated 06.02.2015 is still pending consideration, the same shall be considered and decided before taking further re-course, under the provisions of law.

6. With the above direction, this writ petition is disposed of. No costs.

-Sd/-
Assistant Registrar(cs-II)

//True copy//

Sub Assistant Registrar

ra
To

1. The Authorised Officer,
   HDFC Bank,
   Mariam Centre,
   751/A Anna Salai,
   Chennai 600 002.

+1 cc to Mr.Ananda Gomathy,Advocate(sr.51828)`

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GR(co)
cp 06/10/2015